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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|------------------------|---------------------|------------------|
| 09/677,919   | 10/03/2000  | Warren Alan Montgomery | LUC-170/Mon*9       | 5970             |
| 32205  | 7590        | 01/13/2005             | EXAMINER            |                  |
| PATTI & BRILL<br>ONE NORTH LASALLE STREET<br>44TH FLOOR<br>CHICAGO, IL 60602 |             |                        | ESCALANTE, OVIDIO   |                  |
|  |             |                        | ART UNIT            | PAPER NUMBER     |
|  |             |                        | 2645                |                  |

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/677,919             | MONTGOMERY ET AL.   |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Ovidio Escalante       | 2645                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 October 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.  
 4a) Of the above claim(s) 15-22 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-14 and 23-28 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. This action is in response to applicant's response filed on October 7, 2004.

**Claims 1-28** are now pending in the present application of which **claims 15-22** are withdrawn from consideration.

***Election/Restrictions***

2. Applicant's election of Group I, claims 1-14,23-28 in the reply filed on October 7, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Claim Objections***

3. Claim 25 is objected to because of the following informalities: it does not end with the required end punctuation. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-14,23-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Horn US Patent 6,556,670.

***Regarding claim 1***, Horn teaches a method of filtering an audio stream sent to an audio-capable device (100) (abstract; col. 2, lines 26-53) comprising the steps of:

receiving the audio stream,(col. 4, line 64-col. 5, line 12);  
identifying at least one portion of the audio stream for removal, (col. 2, line 26-53; col. 4, line 64-col. 5, line 12; col. 6, lines 51-65); and  
removing the at least one portion of the audio stream resulting in a filtered audio stream, (col. 5, lines 3-12).

***Regarding claim 2***, Horn, as applied to claim 1, teaches transmitting the filtered audio stream to the audio-capable device, (fig. 1; col. 5, lines 3-12).

***Regarding claim 3***, Horn, as applied to claim 1, teaches wherein the step of receiving further comprises the step of receiving the audio stream at an intelligent network node in a communication network, (col. 6, lines 35-50; fig. 1).

***Regarding claim 4***, Horn, as applied to claim 1, teaches wherein the step of identifying further comprises the step of determining that the at least one portion of the audio stream contains music, (col. 2, lines 26-53; col. 4, line 64-col. 5, line 12).

***Regarding claim 5***, Horn, as applied to claim 1, teaches wherein the step of identifying further comprises the step of determining that the at least one portion of the audio stream contains speech, (col. 4, line 64-col. 5, line 10; col. 6, lines 51-65).

***Regarding claim 6***, Horn, as applied to claim 5, teaches wherein the step of determining further comprises the step of recognizing that the at least one portion of the audio stream that contains speech matches a template of speech that is stored in a memory, (col. 4, line 64-col. 5, line 12; col. 6, lines 51-65).

***Regarding claim 7***, Horn, as applied to claim 6, teaches saving in the memory via service provisioning the template of speech to be filtered from the audio stream, (col. 4, line 64-col. 5, line 12; col. 6, lines 51-65).

***Regarding claim 8***, Horn, as applied to claim 5, teaches detecting a signal from the audio-capable device, and storing as a template of speech in a memory the at least one portion of the audio stream that is temporally associated with the signal, (col. 5, lines 13-27; col. 6, lines 51-65).

***Regarding claim 9***, Horn, as applied to claim 8, teaches in which the signal is a switch hook signal, (col. 5, lines 13-27; col. 6, lines 51-65).

***Regarding claim 10***, Horn, as applied to claim 8, teaches in which the signal is at least one keypad tone, (col. 5, lines 13-27; col. 6, lines 51-65).

***Regarding claim 11***, Horn, as applied to claim 5, teaches determining that a gap in speech within the audio stream exceeds a pre-provisioned limit, (col. 6, lines 51-65).

***Regarding claim 12***, Horn, as applied to claim 1, teaches routing the filtered audio stream to at least one other audio-capable device of a plurality of audio-capable devices, (fig. 1; col. 5, lines 3-12).

***Regarding claim 13***, Horn, as applied to claim 12, teaches wherein the step of routing further comprises the steps of querying a database having at least one pre-provisioned address associated with the at least one other audio-capable devices, receiving the at least one pre-provisioned address in response to querying the database, and sending the filtered audio stream to the at least one other audio-capable device associated with the at least one pre-provisioned address from the database, (col. 4, line 64-col. 5, line 12).

***Regarding claim 14***, Horn, as applied to claim 12, teaches wherein the step of routing further comprises the step of receiving an indication of the at least one other

audio-capable device in response to an audible query, (fig. 1; col. 4, line 64-col. 5, line 12).

***Regarding claim 23***, Horn teaches an apparatus that filters an audio stream (abstract; col. 2, lines 26-53) comprising:

- a receiver for receipt of the audio stream, (fig. 2; col. 4, line 64-col. 5, line 12);
- a controller coupled to the receiver that identifies at least one portion of the audio stream that was the receiver, (fig. 2; col. 2, line 26-53; col. 4, line 64-col. 5, line 2; col. 6, lines 51-65); and
- a filter coupled to the receiver and the controller that removes the at least one portion of the audio stream resulting in a filtered audio stream, (col. 5, lines 3-12).

***Regarding claim 24***, Horn, as applied to claim 23, teaches wherein the apparatus is in an intelligent network node in a communication network, (col. 6, lines 35-50).

***Regarding claim 25***, Horn, as applied to claim 23, teaches wherein the controller identifies the at least one portion of the audio stream contains music, (col. 2, lines 26-53).

***Regarding claim 26***, Horn, as applied to claim 23, teaches wherein the controller identifies the at least one portion of the audio stream contains speech, (col. 4, line 64-col. 5, line 12; col. 6, lines 51-65).

***Regarding claim 27***, Horn, as applied to claim 23, teaches a memory to the controller, having at least one template of speech coupled to be filtered from the audio stream, (col. 4, line 64-col. 5, line 12; col. 6, lines 51-65).

***Regarding claim 28***, Horn, as applied to claim 27, teaches wherein the memory having the at least one template of speech is populated upon initialization of the apparatus, (col. 6, lines 51-65; fig. 2).

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Light et al. US Patent 6,349,136 teaches of a system and method for stopping music from reaching all of the parties.

Chan et all. EP Patent Application EP 1156647 A1 teaches of a method and system for suppressing music during a call.

7. Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

or faxed to:

(703) 872-9306, (for formal communications intended for entry)

Or:

(703) 872-9306, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

220 20<sup>th</sup> Street S.  
Crystal Plaza two, Lobby, Room 1B03  
Arlington, VA 22202

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is 703-308-6262. The examiner can normally be reached on M-F (6:30AM - 5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S Tsang can be reached on 703-305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**OVIDIO ESCALANTE  
PATENT EXAMINER**

*Ovidio Escalante*

Ovidio Escalante  
Examiner  
Group 2645  
January 5, 2005

O.E./oe